

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 04-2154

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United States of America,

Appellee,

v.

Darrell Gene Andersen,

Appellant.

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Appeal from the United States  
District Court for the  
Northern District of Iowa.

[UNPUBLISHED]

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Submitted: November 15, 2004

Filed: December 6, 2004

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Before MURPHY, HANSEN, and MELLOY, Circuit Judges.

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PER CURIAM.

Darrell Gene Andersen pleaded guilty to possessing with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841, and possessing methamphetamine while on release from jail, in violation of 21 U.S.C. § 844. The district court<sup>1</sup> sentenced him to a total of 150 months in prison and eight years of supervised release.

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<sup>1</sup> The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.

The district court denied Andersen's request for a reduction for acceptance of responsibility because of his pre-sentencing conduct while on a court-authorized furlough from jail to attend his sister's funeral. He admitted that he had used methamphetamine while on release, that he had concealed methamphetamine in his mouth when he returned to jail, and that he had swallowed it when confronted by jail staff. His urine tested positive for methamphetamine.

Andersen appeals the district court's denial of the acceptance-of-responsibility reduction. After reviewing the record and the parties' submissions on appeal, we conclude that the district court did not clearly err. See, e.g., United States v. Byrd, 76 F.3d 194, 195-97 (8th Cir. 1996) (district court did not clearly err by denying acceptance-of-responsibility reduction for defendant who admitted that, while on release pending sentencing, his urine tested positive for marijuana); United States v. Thomas, 72 F.3d 92, 92-93 (8th Cir. 1995) (district court did not clearly err by denying acceptance-of-responsibility reduction for defendant who admitted that he used marijuana while on release awaiting sentencing); United States v. Poplawski, 46 F.3d 42, 43 (8th Cir.) (district court did not clearly err by denying acceptance-of-responsibility reduction for defendant who used amphetamine, methamphetamine, and marijuana while on release pending sentencing), cert. denied, 515 U.S. 1109 (1995).

Accordingly, we affirm the judgment of the district court.<sup>2</sup>

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<sup>2</sup>Following submission of this case, the appellant filed a pro se motion to stay the appeal pending the Supreme Court's decision in United States v. Booker, one of the cases currently before the Court concerning the applicability of Blakely v. Washington, 124 S.Ct. 2531 (2004) to the United States Sentencing Guidelines. Pursuant to our Administrative Order Regarding Blakely Cases, issued on September 27, 2004, the motion to stay is denied. The Clerk is directed to send a copy of the Administrative Order to the appellant and to his appointed counsel.